

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 872 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

GOPAL GLASS WORKS PVT LTD

Appearance:

Mr.N.D.Gohil, for Appellant.
None appeared for respondents.

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 12/01/2001

ORAL JUDGEMENT

1. This is an appeal filed by the State against the order of JMFC, Kadi in Criminal Case No. 1088/88 seeking enhancement of the sentence.

2. That on 21.7.1987 Shri K.M.Patel, the Government Labour Officer designated as Inspector under section 27 of the Payment of Bonus Act, 1965 visited the factory premises of respondent no.1 - named Gopal Glass Works Pvt.Ltd.. It was found by the Inspector that the respondents had committed breach of provisions of rule 5 of the Payment of Bonus Rules, 1965 along with section 19(b) of the Payment of Bonus Act, 1965. After following the necessary procedure and obtaining sanction a complaint was lodged. All the three respondents-accused pleaded guilty when the charges were read out to them and filed a petition on 23.7.1990 requesting the Trial Court to set them free after admonishing them, or in the alternative, impose a fine of the minimum amount.

3. The three respondents - accused having pleaded guilty, the Trial Court passed the order in the following terms :

[i] fine of Rs.150/- was imposed on each of the accused for violation of section 19(b) of the Act and in default simple imprisonment for a period of ten days,

[ii] each of the accused was further imposed a fine of Rs.100/- for violation of rule 5 of the Rules and in default simple imprisonment for a period of seven days.

Thus, in all a fine of Rs.750/- was imposed on all the three accused.

4. Mr.N.D.Gohil, learned APP., has placed reliance on section 28 of the Act stating that the learned Magistrate ought to have inflicted minimum sentence prescribed under section 28(b) of the Act. It was further submitted that the order of sentence was even otherwise inadequate and different sentences ought to have been inflicted according to law. It was therefore prayed that the sentence imposed by the Trial Court was required to be enhanced.

5. Section 28 of the Payment of Bonus Act, 1965 on which reliance has been placed on behalf of the appellant is reproduced hereunder for ready reference :

"28. Penalty. - If any person -

(a) contravenes any of the provisions of this Act or any rule made thereunder; or

(b) to whom a direction is given or a requisition is made under this Act fails

to comply with the direction or
requisition,
he shall be punishable with imprisonment for a
term which may extend to six months, or with fine
which may extend to one thousand rupees, or with
both".(emphasis supplied).

6. On plain reading of the aforesaid provision, it is apparent that the section provides for the maximum sentence that a Court can impose i.e. upper limit has been prescribed in relation to sentence of imprisonment or sentence of fine or both. However, there is no minimum limit prescribed by the provision. The phrase "which may extend to" used both in relation to imprisonment as well as fine makes it apparent that the punishment that could be imposed could be upto the stated limit and not beyond that, but the section nowhere provides for the minimum sentence that is required to be imposed.

7. In view of the clear provisions of law it cannot be stated that the Trial Court had erred in exercising its discretion as there is no minimum limit of sentence provided in the section. In so far as enhancement is concerned, of the sentence which is already imposed, suffice it to state that no factors or evidence are pointed out to enable us to differ from the sentence already imposed. The Trial Court has exercised its discretion in light of the plea made before it vide exh.33 and we have already produced the relevant portion of the said pursish hereinbefore.

8. In these circumstances the appeal of the State fails. We find no infirmity in the order dated 23.7.1990 passed by the Trial Court and decline to interfere with the same. The appeal is dismissed. Records and Proceedings to be returned.

Sd/-

(D.A.Mehta, J)

m.m.bhatt